



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,288	02/26/2002	Anthony C. Vrba	1001.1541101	4123

28075 7590 02/10/2006

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
----------	--------------

3736

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,288	Applicant(s) VRBA ET AL.	
	Examiner Brian Szmaj	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-22 and 25-27 is/are allowed.
- 6) ☒ Claim(s) 1-9, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 28 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 5, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Dubrul et al (6,602,265 B2).

Dubrul et al disclose an elongated core wire (10) having a longitudinal axis, a proximal end and a distal end; an actuatable stop disposed at the distal end of the core wire, the actuatable stop moveable between a collapsed position and an expanded position; an actuator (9) positioned adjacent the stop, the actuator (9) moveable between a first position and a second position to move the stop between the collapsed position and the expanded position; a filter slidably disposed on the core wire proximally of the actuatable stop; the actuatable stop comprises a tubular member having a proximal and distal end; the distal section of the tubular member includes a plurality of circumferentially disposed openings (8) adapted to permit a plurality of struts (7) disposed therebetween to expand in an outward direction; the inner diameter of the tubular member is substantially similar to the outer diameter of the core wire; and advancing an intravascular device along the core wire until the intravascular device

Art Unit: 3736

abuts the stop. See Figures 2A-2C, 5; Column 7, lines 22-34; and Column 8, lines 14-35.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubrul et al (6,602,265 B2) as applied to claim 1 above, and further in view of Levinson et al (6,277,139 B1).

Dubrul et al, as discussed above, disclose a guidewire with a stop and a filtering device, but fail to disclose a locking mechanism adapted to prevent relative motion between the stop and the core wire; the locking mechanism comprises an enlarged outer diameter portion disposed on the core wire; the locking mechanism comprises an enlarged outer diameter portion disposed on the core wire corresponding in size and shape to a reduced inner diameter portion disposed on the stop; and the locking mechanism comprises a locking hub disposed about a proximal portion of the core wire.

Levinson et al disclose a vascular protection device and further disclose a locking mechanism adapted to prevent relative motion between the stop and the core wire; the locking mechanism comprises an enlarged outer diameter portion disposed on the core wire; the locking mechanism comprises an enlarged outer diameter portion disposed on

Art Unit: 3736

the core wire corresponding in size and shape to a reduced inner diameter portion disposed on the stop; and the locking mechanism comprises a locking hub disposed about a proximal portion of the core wire. See Figures 11 and 12; and Column 13, lines 33-36.

Since both Dubrul et al and Levinson et al disclose means for guiding an element along a core wire, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Dubrul et al to include the use of a locking mechanism, as per the teachings of Levinson et al, since it would provide a means of limiting the motion between the core wire and the stop while preventing the operator from manually holding the stop in the expanded position.

Allowable Subject Matter

5. Claims 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: Claims 10-22 and 25-27 remain allowable per the reasons set forth in the Office Action mailed on August 9, 2005.

Response to Arguments

7. Applicant's arguments, filed November 8, 2005, with respect to the rejection(s) of claim(s) 1, 2, 5, 23 and 24 under Cohen et al (5,167,239) in view of Dubrul et al

Art Unit: 3736

(6,602,265 B2) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Dubrul et al (6,602,265 B2).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BS



MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700